

Introduced: 5/1/78
Referred: The Special Committee on
Subsistence, Resources and
Finance

BY THE RULES COMMITTEE BY
REQUEST (for the Special
Committee on Subsistence)

1 IN THE HOUSE

2 SCS CS HOUSE BILL NO. 960 (FIN)AM

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 TENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act relating to fish and game management."

7 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

8 * Section 1. INTENT. The legislature finds that there is a need to
9 develop a statewide policy on the utilization, development and conservation
10 of fish and game resources, and to recognize that those resources are not
11 inexhaustible and that preferences must be established among beneficial users
12 of the resources. The legislature further determines that it is in the
13 public interest to clearly establish subsistence use as the priority bene-
14 ficial use of Alaska's fish and game resources and to recognize the needs,
15 customs and traditions of Alaskan residents. The legislature further finds
16 that beneficial use of those resources by all state residents should be
17 carefully monitored and regulated, with as much input as possible from the
18 affected users, so that the viability of fish and game resources is not
19 threatened and so that resources are conserved in a manner consistent with
20 the sustained-yield principle.

21 * Sec. 2. AS 16.05.020(1) is amended to read:

22 (1) supervise and control the department, and, except as
23 provided under sec. 93 of this chapter, he may appoint and employ divi-
24 sion heads, enforcement agents, and the technical, clerical, and other
25 assistants necessary for the general administration of the department;

26 * Sec. 3. AS 16.05.090 is amended by adding a new subsection to read:

27 (c) There is established in the Department of Fish and Game a
28 division of subsistence hunting and fishing.

29 * Sec. 4. AS 16.05 is amended by adding new sections to read:

SCS CS \$ HB 960 (FINANCE) AM

1 Sec. 16.05.093. DIRECTOR OF THE DIVISION OF SUBSISTENCE HUNTING
2 AND FISHING. The division of subsistence hunting and fishing shall be
3 administered by a director appointed by the governor.

4 Sec. 16.05.094. DUTIES OF DIVISION OF SUBSISTENCE HUNTING AND
5 FISHING. The division of subsistence hunting and fishing shall

6 (1) compile existing data and conduct studies to gather
7 information on all aspects of the role of subsistence hunting and fish-
8 ing in the lives of the residents of the state;

9 (2) quantify the amount, value, and extent of dependence on
10 food acquired through subsistence hunting and fishing;

11 (3) make information gathered available to the legislature in
12 a form suitable for use in developing legislation relating to land and
13 water management;

14 (4) assist the legislature to determine what uses of fish and
15 game, as well as which users and what methods, should be termed sub-
16 sistence uses, users, and methods;

17 (5) evaluate the impact of state and federal laws and regu-
18 lations on subsistence hunting and fishing and, when corrective action
19 is indicated, make recommendations to the governor and the legislature;

20 (6) make recommendations to the Board of Game and the Board
21 of Fisheries regarding adoption, amendment and repeal of regulations
22 relating to subsistence hunting and fishing.

23 * Sec. 5. AS 16.05.221 is amended to read:

24 Sec. 16.05.221. BOARDS OF FISHERIES AND GAME. (a) For purposes
25 of the conservation and development of the fishery resources of the
26 state, there is created the Board of Fisheries composed of nine [SEVEN]
27 members appointed by the governor, subject to confirmation by a majority
28 of the members of the legislature in joint session. The [APPOINTED]
29 members shall be residents of the state and shall be appointed without

1 regard to political affiliation [OR GEOGRAPHICAL LOCATION OF RESIDENCE].
2 Membership of the board shall include one user of fish for subsistence
3 from each of the four judicial districts of the state, two holders of
4 sport fishing licenses who are not users of fish for subsistence, two
5 holders of commercial fishing licenses, and one member at large. The
6 commissioner is not a member of the Board of Fisheries, but shall be ex
7 officio secretary.

8 (b) For purposes of the conservation and development of the game
9 resources of the state, there is created a Board of Game composed of
10 nine [SEVEN] members appointed by the governor, subject to confirmation
11 by a majority of the members of the legislature in joint session. The
12 [APPOINTED] members shall be residents of the state, and shall be ap-
13 pointed without regard to political affiliation [OR GEOGRAPHICAL LOCA-
14 TION OF RESIDENCE]. Membership of the board shall include one user of
15 game for subsistence from each of the four judicial districts of the
16 state, two holders of hunting licenses who are not users of game for
17 subsistence, two master guides, and one member at large. The commis-
18 sioner is not a member of the Board of Game, but shall be ex officio
19 secretary.

20 * Sec. 6. AS 16.05.251 is amended by adding a new subsection to read:

21 (b) The Board of Fisheries shall adopt regulations in accordance
22 with the Administrative Procedure Act (AS 44.62) permitting the taking
23 of fish for subsistence uses unless the board determines, in accordance
24 with the Administrative Procedure Act, that adoption of such regulations
25 will jeopardize or interfere with the maintenance of fish stocks on a
26 sustained-yield basis. Whenever it is necessary to restrict the taking
27 or other consumptive uses of fish in order to assure the maintenance of
28 fish stocks on a sustained-yield basis, or the continuation of subsis-
29 tence uses of such resources, subsistence use shall be the priority use.

1 If further restriction is necessary, the board shall establish restric-
2 tions and limitations on and priorities for these consumptive uses on
3 the basis of the following criteria:

4 (1) customary and direct dependence upon the resource as the
5 mainstay of one's livelihood;

6 (2) local residency; and

7 (3) availability of alternative resources.

8 * Sec. 7. AS 16.05.255 is amended by adding new subsections to read:

9 (b) The Board of Game shall adopt regulations in accordance with
10 the Administrative Procedure Act (AS 44.62) permitting the taking of
11 game for subsistence uses unless the board determines, in accordance
12 with the Administrative Procedure Act, that adoption of such regulations
13 will jeopardize or interfere with the maintenance of game resources on a
14 sustained-yield basis. Whenever it is necessary to restrict the taking
15 or other consumptive uses of game in order to assure the maintenance of
16 game resources on a sustained-yield basis, or the continuation of sub-
17 sistence uses of such resources, subsistence use shall be the priority
18 use. If further restriction is necessary, the board shall establish
19 restrictions and limitations on and priorities for these consumptive
20 uses on the basis of the following criteria:

21 (1) customary and direct dependence upon the resource as the
22 mainstay of one's livelihood;

23 (2) local residency; and

24 (3) availability of alternative resources.

25 (c) No regulations permitting the taking of game may be adopted
26 unless the game is edible at the time of year when the taking is to be
27 permitted.

28 * Sec. 8. AS 16.05.257(a) is amended to read:

29 (a) The Board of Game, at its regularly scheduled annual meeting,

1 shall consider and may adopt regulations providing for subsistence
2 hunting in a game management unit or subunit or a portion of a unit or
3 subunit upon

4 (1) recommendation of the department, based on biological
5 evidence;

6 (2) the recommendation [MAJORITY VOTE] of the active local
7 advisory committees for that game management unit or subunit or a por-
8 tion of a unit or subunit;

9 (3) the written petition of not less than 100 interested
10 residents of that game management unit or subunit or a portion of a unit
11 or subunit; or

12 (4) the written petition of not less than 25 interested
13 residents of an area which is requested for establishment as a subsis-
14 tence area within a game management unit or subunit or a portion of a
15 unit or subunit.

16 * Sec. 9. AS 16.05.257(c) is repealed and re-enacted to read:

17 (c) No regulations may be adopted by the Board of Game under (a),
18 (b) or (f) of this section unless, in addition to the requirements of AS
19 44.62.180 - 44.62.290, the department

20 (1) holds public hearings, after reasonable notice, at least
21 30 days before the meeting at which the regulation is to be adopted,
22 with at least one of the hearings being held in close proximity to the
23 area potentially affected;

24 (2) presents at the hearings the information provided for in
25 (e) of this section;

26 (3) makes the information provided for in (e) of this section
27 available to the appropriate advisory committees and to petitioners if
28 consideration of adoption of regulations was prompted by petitions under
29 (a)(3) or (4) of this section; comments shall be received by the board

1 until 10 days before any adoption of regulations.

2 * Sec. 10. AS 16.05.257(d) is amended to read:

3 (d) A petition submitted under (a)(3) - (4) of this section shall
4 contain a complete description of the area requested as a subsistence
5 area and a specification of the species within the area considered
6 necessary for subsistence use. A petition or request made under (a)(2),
7 (3) or (4) of this section must be filed with the department at least
8 75 days before the next scheduled meeting of the board.

9 * Sec. 11. AS 16.05.257(e) is repealed and re-enacted to read:

10 (e) The department shall investigate every petition or request
11 made under (a)(2), (3) or (4) of this section and provide the following
12 information: (1) the concentration and carrying capacity of the species
13 to be affected; (2) the concentration of other species; (3) the extent
14 of competition of other species with the affected species in the area;
15 (4) the current hunting practices in the area, including numbers of
16 animals taken and by what methods and means, whether the take is sub-
17 sistence or recreational, and characteristics of the hunters; (5) the
18 past and present dependence of persons in the area for subsistence use
19 of a species; (6) the biomass of the species to be affected; (7) the
20 population trends in the area; and (8) whether the population is able to
21 support a nonsubsistence harvest. No decision denying, creating or
22 changing a subsistence hunting area may be made unless based on specific
23 written findings of fact regarding all the information provided in
24 accordance with this section. No subsistence hunting area may be
25 created if the board determines that creation of such an area will
26 jeopardize or interfere with the maintenance of game populations on a
27 sustained-yield basis.

28 * Sec. 12. AS 16.05.257(h)(1) is amended to read:

29 (1) "subsistence hunting" means the taking of game animals by

1 a state resident for subsistence uses by means defined by the Board of
2 Game [FOOD OR CLOTHING FOR PERSONAL OR IMMEDIATE FAMILY USE];

3 * Sec. 13. AS 16.05.257(h)(2) is repealed and re-enacted to read:

4 (2) "subsistence hunting area" means an area in which only
5 subsistence hunting of the affected species is permitted and which is
6 managed for maximum food potential.

7 * Sec. 14. AS 16.05.257 is amended by adding a new subsection to read:

8 (i) The Board of Game may make no decision denying, creating or
9 changing a subsistence hunting area unless based on specific written
10 findings of fact regarding all the information provided in accordance
11 with (e) of this section. No subsistence hunting area may be created if
12 the board determines that creation of such an area will jeopardize or
13 interfere with the maintenance of game populations on a sustained-yield
14 basis.

15 * Sec. 15. AS 16.05.290 is amended to read:

16 Sec. 16.05.290. COMPENSATION OF BOARD MEMBERS. Each member of a
17 board is entitled to travel expenses, [AND \$100] per diem, and \$100 in
18 compensation for each day going to and from and for each day in actual
19 attendance at board meetings and other meetings or conferences author-
20 ized by a board.

21 * Sec. 16. AS 16.05.345 is amended to read:

22 Sec. 16.05.345. MUSK OXEN. The department shall issue big game
23 tags for the taking of musk oxen if an open season is declared. The
24 cost of these tags is \$500 for residents and \$1,000 for nonresidents
25 unless the musk ox is to be taken for subsistence by a person residing
26 in the vicinity of the habitat of the musk ox, in which case the tag
27 shall be issued at no charge. Drawings for subsistence musk oxen per-
28 mits shall be held in villages in the vicinity of the musk oxen habitat.
29 The department shall conduct a drawing for permits to take musk oxen.

1 No person is eligible for more than one permit a year. Each application
2 for a permit shall be accompanied by a \$10 fee.

3 * Sec. 17. AS 16.05.930(b) is amended to read:

4 (b) This chapter does not prohibit a person from taking fish or
5 game during the closed season for religious purposes or in a case [, IN
6 CASE] of dire emergency, as defined by regulation promulgated by the
7 appropriate board.

8 * Sec. 18. AS 16.05.930 is amended by adding a new subsection to read:

9 (e) This chapter does not prevent the traditional barter of fish
10 and game taken by subsistence hunting or fishing, except that the com-
11 missioner may prohibit the barter of subsistence-taken fish and game by
12 regulation, emergency or otherwise, if a determination on the record is
13 made that the barter is resulting in a waste of the resource, damage to
14 fish stocks or game populations, or circumvention of fish or game
15 management programs.

16 * Sec. 19. AS 16.05.940 is amended by adding new paragraphs to read:

17 (26) "subsistence uses" means the customary and traditional
18 uses in Alaska of wild, renewable resources for direct personal or
19 family consumption as food, shelter, fuel, clothing, tools, or trans-
20 portation, for the making and selling of handicraft articles out of
21 nonedible by-products of fish and wildlife resources taken for personal
22 or family consumption, and for the customary trade, barter or sharing
23 for personal or family consumption; for the purposes of this paragraph,
24 "family" means all persons related by blood, marriage, or adoption, and
25 any person living within the household on a permanent basis;

26 (27) "barter" means the exchange or trade of fish or game
27 taken for subsistence uses for valuable consideration other than money.

28 * Sec. 20. AS 24.20 is amended by adding new sections to read:

29 Sec. 24.20.600. SUBSISTENCE COMMITTEE ESTABLISHED. The Subsis-

1 tence Committee is established as a permanent interim committee of the
2 legislature. The establishment of the committee is a recognition that
3 continuous and intensive legislative study and involvement in the sub-
4 sistence lifestyle is necessary to insure that the subsistence lifestyle
5 remains a viable way of life for those who live it through choice or
6 necessity.

7 Sec. 24.20.610. MEMBERSHIP. The Subsistence Committee is composed
8 of three members of the house appointed by the speaker of the house, and
9 three members of the senate appointed by the president of the senate;
10 however, two of the three members from each house shall be the chairman
11 of the standing resources committee or his designee and one other member
12 of the committee. The membership from each house shall include at least
13 one member from each of the two major political parties. The committee
14 elects a chairman from among its members.

15 Sec. 24.20.620. TERM OF MEMBERSHIP. The Subsistence Committee
16 shall be organized within 15 days after the organization of each legis-
17 lature. Members serve for the duration of the legislature during which
18 they are appointed. If they are reelected or their term of office ex-
19 tends into the next succeeding legislature, they continue to serve until
20 reappointed or the appointment of their successor.

21 Sec. 24.20.630. VACANCIES. When a vacancy occurs in the member-
22 ship of the Subsistence Committee, the presiding officer of the house
23 incurring the vacancy shall choose a successor.

24 Sec. 24.20.640. MEETINGS. The Subsistence Committee may meet
25 during sessions of the legislature and during the interim between ses-
26 sions at such times and places in the state as the chairman may deter-
27 mine. Members may receive, for the minimum time required to get to and
28 from meetings and for the period while attending meetings, the same
29 travel and per diem allowances provided by law for members of the legis-

1 lature when attending sessions, except that members of the committee
2 receive no per diem during the legislative sessions other than the per
3 diem allowance paid to other members of the legislature.

4 Sec. 24.20.650. STAFF. The Legislative Affairs Agency shall pro-
5 vide the Subsistence Committee with professional and clerical assistance
6 under the auspices of the Legislative Council.

7 Sec. 24.20.660. DUTIES. The Subsistence Committee shall

8 (1) gather information on all aspects of subsistence hunting
9 and fishing and the role of subsistence in the lives of the residents of
10 the state;

11 (2) monitor the activities of state officers and agencies
12 which affect the use of subsistence resources;

13 (3) evaluate the impact of federal laws, regulations, and
14 policies which affect subsistence;

15 (4) receive public comment on governmental action affecting
16 subsistence;

17 (5) review regulations adopted by the Board of Fish and the
18 Board of Game which affect subsistence.

19 Sec. 24.20.670. POWERS. (a) The Subsistence Committee has the
20 following powers:

21 (1) to organize and adopt rules for the conduct of its busi-
22 ness;

23 (2) to hold public hearings;

24 (3) to call upon all state officials, agencies, and insti-
25 tutions to give full cooperation to the committee and its staff by
26 collecting and furnishing information, conducting studies and writing
27 recommendations;

28 (4) to sponsor legislation in accordance with AS 24.30.-
29 060(b), including resolutions annulling regulations.

1 (b) Nothing in secs. 600 - 680 of this chapter authorizes the
2 referral by the presiding officer of either house of legislation to the
3 committee at regular or special sessions of the legislature.

4 Sec. 24.20.680. REPORTS. The Subsistence Committee shall submit a
5 summary report of its findings and recommendations to each legislature.

6 * Sec. 21. AS 24.30.060(b) is amended to read:

7 (b) Bills introduced by the Legislative Council shall be delivered
8 with a letter of explanation to the rules committee of either house and
9 bear the inscription "Rules Committee by Request of the Legislative
10 Council"; bills introduced by the Subsistence Committee shall be de-
11 livered with a letter of explanation to the rules committee of either
12 house and bear the inscription "Rules Committee by request of the Sub-
13 sistence Committee"; bills introduced by the Administrative Regulation
14 Review Committee shall be delivered with a letter of explanation to the
15 rules committee of either house and bear the inscription "Rules Commit-
16 tee by Request of the Administrative Regulation Review Committee"; bills
17 introduced by the Legislative Budget and Audit Committee shall be de-
18 livered with a letter of explanation to the rules committee of either
19 house and bear the inscription "Rules Committee by Request of the Legis-
20 lative Budget and Audit Committee." Bills presented by the governor
21 shall be delivered with a letter to the rules committee of either house
22 and bear the inscription "Rules Committee by Request of the Governor";
23 bills so presented and inscribed shall be received as bills carrying the
24 approval of the governor as to policy and budget impact. The governor
25 may submit a statement of purpose and effect with each bill and appear
26 personally or through a representative before any committee considering
27 legislation.

28 * Sec. 22. The permanent interim Subsistence Committee established in AS
29 24.20.600, enacted in sec. 20 of this Act expires December 31, 1984.

1 * Sec. 23. Notwithstanding any other provisions of law, the terms of all
2 persons appointed to the Board of Fisheries and the Board of Game under AS
3 16.05.221 and serving on the boards on the effective date of this Act expire
4 on that date. The governor shall appoint persons to seats on the boards as
5 reconstituted under AS 16.05.221, as amended in sec. 5 of this Act, within 30
6 days of the effective date of this Act.

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